United Nations A/58/PV.87

General Assembly
Fifty-eighth session

Official Records

87th plenary meeting
Thursday, 6 May 2004, 3.30 p.m.
New York

President: The Hon. Julian R. Hunte ..... (Saint Lucia)

The meeting was called to order at 3.35 p.m.

Agenda item 38 (*continued*)

Question of Palestine

Draft resolution (A/58/L.61/Rev.1)

The President: I give the floor to the representative of Malaysia to introduce a revised draft resolution on this item (A/58/L.61/Rev.1.

Mr. Rastam (Malaysia): As I informed the General Assembly this morning, the sponsors of draft resolution A/58/L.61 have made some revisions to the text following further consultations and in keeping with the spirit of cooperation and compromise in multilateral negotiations. The revised text is contained in document A/58/L.61/Rev.1. I believe the text is available in all languages and it has been distributed to all delegations.

Allow me to point out the revisions made to the text. First, the sixth preambular paragraph has been shortened to make reference to the need to enable the Palestinian people to exercise sovereignty in general. Secondly, operative paragraph 1 now makes reference to "relevant resolutions of the United Nations, including Security Council resolutions", and the words "their territory" replace the previous wording, "this territory". Additionally, the paragraph makes reference to the duties and obligations of Israel as an occupying Power under the Fourth Geneva Convention and the Hague Convention of 1907.

Thirdly, the last preambular paragraph of A/58/L.61 has now been made into operative paragraph 2 in the revised text, with the words "pre-1967 borders" replacing the words "Armistice Line of 1949".

The sponsors of draft resolution A/58/L.61/Rev.1 would like to thank our partners, in particular the members of the European Union, for their cooperation and support. We hope that with these revisions the Assembly will be able to adopt this draft resolution by an overwhelming majority.

The President: We shall now proceed to consider draft resolution A/58/L.61/Rev.1.

Before giving the floor to delegations wishing to speak in explanation of vote before the vote, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Pamir (Turkey): The Assembly is on the verge of taking another decision on the Palestinian question, which lies at the core of the conflict in the Middle East. The Turkish delegation aligns itself with the statement of the European Union (EU).

Given Turkey's deeply rooted historical, cultural and traditionally friendly ties with all the countries and peoples of the Middle East, I am taking the floor to explain some considerations that shape our position today. In our view, draft resolution A/58/L.61/Rev.1 is

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the outcome of recent initiatives and developments in the region. It is indicative of the extremely crucial issues which are at stake.

The final status negotiations are to be conducted directly between the Palestinians and the Israelis. Those negotiations are designed to settle the core issues between the parties, which are defined in relevant United Nations resolutions and are commonly accepted by the international community. The parties should desist from any unilateral actions or moves that have the potential to cause further deterioration in the situation on the ground.

We shall cast our vote in favour based on the understanding that the draft resolution should in no way be construed as constituting a basis for prejudging the parties with regard to final status negotiations. Final settlement issues must be mutually agreed by the parties through peaceful negotiations, based on the relevant Security Council resolutions, including the principle of land for peace, as well as subsequent agreements reached between the two parties.

Turkey strongly supports the Quartet road map and the most recent statement of the Quartet, of 4 May, along with other initiatives that may guide the parties to reach a final settlement based on the vision of two States living side by side within secure and recognized boundaries. We stand ready, as we have in the past, to assist all the parties to reach a peaceful and final settlement.

Mr. Smirnov (Russian Federation) (*spoke in Russian*): The text of the draft resolution before us does not conflict with international legal instruments regarding the final settlement of the conflict between Palestinians and Israelis. The basis for such a settlement, recently reaffirmed at the ministerial meeting of the Quartet of international mediators on the Middle East, is formed by Security Council resolutions 242 (1967), 338 (1973), 1397 (2001) and 1515 (2003). The latter was adopted at the initiative of the Russian Federation, and in it the international community recognized the road map as the key instrument for settling the Israeli-Palestinian conflict.

The Quartet has strongly rejected any actions that run counter to the road map; any initiatives at this stage should be in keeping with the Quartet peace plan and should lead to the end of the occupation of Palestinian territory.

Russia expects that the Palestinians and the Israelis will implement fully their commitments under the road map. All Israeli actions against civilians must end, and the Israeli side must take no steps that would prejudge final status, use force or contravene international humanitarian law.

A political settlement should lead to the establishment of two equal States living in peace with each other. There should be no doubt that any political settlement will remain mere words unless it is implemented through the collective efforts of the Quartet, whose representatives will soon return to the region to resume work with the parties to implement the decisions of the New York Quartet meeting.

Russia's position has not changed: we believe that the entire range of final status issues — refugees, territorial disengagement and East Jerusalem — must be resolved on the basis of mutual consent by the parties themselves through negotiations. That is why the Russian delegation will vote in favour of draft resolution A/58/L.61/Rev.1.

Mr. Ryan (Ireland): I have the honour to speak on behalf of the European Union (EU). The candidate countries Bulgaria, Romania and Turkey, the countries of the Stabilization and Association Process and potential candidates Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and the European Free Trade Association countries Iceland, Liechtenstein and Norway, members of the European Economic Area, align themselves with this statement.

The European Union reaffirms its commitment to a negotiated two-State solution, agreed between the parties, which would result in a viable, contiguous, sovereign and independent Palestinian State existing side by side in peace with an Israel living within recognized and secure borders. The Union reaffirms its belief that the road map represents the only route to achieving such an outcome. The Union is determined to pursue vigorously the course set out in the road map and calls on both sides to fulfil their obligations under the road map.

The European Union recalls its established position, restated by the European Council on 25 and 26 March, that the Union will not recognize any changes to the pre-1967 borders other than those arrived at by agreement between the parties. The Union emphasizes that no declared views on the possible

shape of a final settlement can pre-empt the negotiation of that settlement.

The European Union also notes that the refugee question and the manner in which the right of return may be realized also constitute a final status issue and that the road map states that a final and comprehensive permanent status agreement that ends the Israeli-Palestinian conflict must include an agreed, just, fair and realistic solution to that question.

The European Union emphasizes the principle that final status issues are a matter for negotiation and agreement between the parties themselves and must not be prejudged.

The European Union notes that secure and recognized borders should emerge from negotiations between the parties in accordance with Security Council resolutions 242 (1967) and 338 (1973). Those and other relevant Security Council resolutions must form the basis for a just and lasting settlement of the conflict.

The European Union welcomes the prospect of Israel's withdrawal from the Gaza Strip. The European Council has stated that such a withdrawal could represent a significant step towards the implementation of the road map, provided that it is carried out in accordance with certain conditions. This is an opportunity which the international community, led by the Quartet, should seize. The proposed withdrawal should be properly orchestrated with the international community so as to ensure that an orderly situation in Gaza results, which will permit the maintenance of security as well as rehabilitation and reconstruction. The Union urges all parties to undertake urgently preparations towards that end.

On that basis, the European Union reiterates its readiness to support the Palestinian Authority in taking responsibility for law and order as well as to continue the Union's existing aid to the Palestinian Authority and to examine possible future needs which may arise in the context of a new situation in Gaza. The Union stresses the need to avoid a political vacuum and the dangers which that would involve in the interim period between now and the beginning of any withdrawal. It recalls that there are a number of measures which need to be adopted in the period immediately ahead in the political, security and humanitarian spheres in order to prevent further deterioration and to resume progress.

The European Union urges an end to violence and terrorism as well as the resumption of a ceasefire embracing all parties and groups. It calls on both sides to resume negotiations on the peace process without further delay.

The European Union recalls that a just, lasting and comprehensive peace must meet the legitimate aspirations of both the Israeli and the Palestinian peoples and must include Lebanon and Syria.

The European Union also calls on all States in the region to exert every effort to promote peace and to combat terrorism.

The European Union welcomes the outcome of the Quartet meeting held in New York on 4 May. The European Union underscores its commitment to work actively within the Quartet in pursuing the goal of a comprehensive regional peace and to encourage the parties to move ahead vigorously on the basis of the principles just outlined.

The European Union has decided to support the draft resolution, as it is consistent with European Union positions.

Mr. Balarezo (Peru) (*spoke in Spanish*): Peru considers this to be a subject of utmost importance; naturally, it supports the peace process and the road map. It awaits the realization of the inalienable rights of the Palestinian people and the attainment of a negotiated, just and comprehensive peace agreement in the Middle East. We hope to see the two States, Palestine and Israel, living peacefully within secure borders.

However, there is a procedural point which is the reason why Peru must abstain in the vote on draft resolution A/58/L.61/Rev.1. I am referring not just to the fact of the failure to respect the 24-hour rule and the failure to distribute the draft resolution in all languages, but also to the fact that we have to confront a fluid situation. We have to react very quickly to a text that was negotiated not necessarily in the most transparent manner. Not all delegations — and this is the case of Peru — are able to react in this type of situation. It is due to those circumstances — related not to the content but rather to the process — the Peruvian delegation will abstain. Of course, Peru is not among those countries that are prepared to paralyze a process of such importance, because we consider it is truly of great importance.

The President: We have heard the last speaker in explanation of vote before the vote.

The Assembly will now take a decision on draft resolution A/58/L.61/Rev.1, entitled "Status of the Occupied Palestinian Territory, including East Jerusalem". A recorded vote has been requested.

A recorded vote was taken.

In favour:

Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Central African Republic, Chile, China, Colombia, Comoros, Congo, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia

Against:

Israel, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, United States of America

Abstaining:

Australia, Costa Rica, Dominican Republic, Guatemala, Honduras, Nicaragua, Peru, Serbia and Montenegro, Solomon Islands, Tonga, Tuvalu

Draft resolution A/58/L.61/Rev.1 was adopted by 140 votes to 6, with 11 abstentions (resolution 58/292).

[*Subsequently, the delegation of Turkmenistan informed the Secretariat that it had intended to vote in favour.*]

The President: Before giving the floor to speakers in explanation of vote after the vote, may I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Gallegos Chiriboga (Ecuador) (*spoke in Spanish*): My delegation wishes to make the following explanation of vote in connection with the draft resolution that has just been put to the vote.

Ecuador maintains its traditional position of encouraging a peaceful and negotiated settlement of the Middle East question, in the light of the resolutions adopted by the Security Council in that regard, taking into account the rights of the Palestinian and Israeli peoples in the framework of international law.

For that reason, it expresses its full support for Security Council resolutions 242 (1967), 338 (1973), 1397 (2002) and 1515 (2003), as those resolutions constitute the legal and political framework for the re-establishment of the peace negotiations. Ecuador recognizes Israel's right to live in peace within secure and recognized borders within the framework of international law, as well as the inalienable right of the Palestinian people to build their own State, in accordance with United Nations resolutions. For that reason, the Government of Ecuador, in keeping with what has been the constant policy of the Ecuadorian State, will continue to support United Nations efforts to seek a peaceful and negotiated solution to the Palestinian-Israeli problem which maintains the rights of both peoples, in accordance with international law.

Bearing in mind the fact that draft resolution A/58/L.61/Rev.1 is consistent with principles that

Ecuador has supported in the international arena, such as the self-determination of peoples and the rejection of occupation and annexation of territory by force, my delegation voted in favour of it.

Mr. Rock (Canada): Canada regrets to see the addition of yet another resolution to an already lengthy list of resolutions on the Middle East. Canada firmly supports Security Council resolutions 242 (1967), 338 (1973) and 1397 (2002), including the requirement of Israeli withdrawal from territories occupied in 1967.

Canada also supports both the full realization of the legitimate right of Palestinians to self-determination and to the creation of a Palestinian State through direct negotiations between the parties, leading to a just, comprehensive and sustainable peace, and the vision of a region where there are two States — Israel and a Palestinian State — living side by side within secure and recognized borders. In our view, while the international community can provide essential support for their efforts, final status issues can be resolved only through a negotiated settlement between the parties. In that regard, we welcome the statement made by the members of the Quartet on 4 May.

Mr. Matsuura (Japan): Japan voted in favour of resolution 58/292. The position of the Japanese Government on the Middle East issue is that peace should be sought in accordance with the road map and that final status, including borders, should be resolved strictly through negotiations between the parties.

Mr. Gillerman (Israel): Israel objected to this futile resolution not because we oppose a negotiated two-State solution to the conflict, as envisaged in the road map, but because we support it. We objected to this resolution because of what it ignores, because of what it misrepresents and because the motive of its primary sponsor in submitting this text was to undermine and prejudge the negotiating process, not to further it.

This resolution totally ignores the Quartet statement made two days ago and violates the central tenet of the peace process, reiterated in the Quartet statement: to avoid prejudging the outcome of negotiations. If borders and settlements are expressly reserved as a matter for negotiations, how can it be that the Assembly should presume to affirm rights and express positions on the conflicting claims of the parties? There is a clear contradiction between the Quartet statement and this resolution, and, in that regard, the failure of the resolution to even refer to the Quartet statement issued just 48 hours ago is a telling sign.

The resolution blatantly misrepresents reality. It is a simple matter of fact and of law that the 1949 Armistice Lines have never represented and do not now represent borders, as this resolution can be taken mistakenly to imply. That is precisely why Security Council resolutions 242 (1967) and 338 (1973) and every other agreed term of reference for the peace process have affirmed that secure and defensible borders are a matter for negotiation, not for predetermined answers.

Perhaps worst of all, this resolution once again sends the message to the Palestinian side that their failure to live up to their responsibilities will have no impact on the General Assembly. The longer the Assembly continues to pander to these self-serving initiatives and avoid the hard issues, the more it will continue to undermine the very negotiating process it claims to promote, and in the process harm its own reputation and claim to legitimacy.

Let us not pretend that, as some speakers have claimed, this political body is engaged in dispassionate legal analysis. This body, which brought us the Zionism-is-racism resolution, condemned the peace agreement between Israel and Egypt and introduced many other farcical texts on the Middle East, has not been famous of late for its objectivity regarding this conflict.

If this text or any other of the countless Palestinian texts were genuinely concerned with legal principle, we would have seen long ago a condemnation of the legal support and complicity of the Palestinian leadership and other regimes in the region in the murder of innocent civilians. We would have seen a concern for the human rights of Israelis, not just of Palestinians. And we would have heard calls for the Palestinian leadership to finally pursue the welfare of their own people rather than siphon donor money for their personal corrupt prosperity.

Let us also not pretend that all the evils of the conflict can be blamed on occupation, as the Palestinian Observer is so intent on marketing. If this conflict were just about occupation, a Palestinian State would have been created between 1948 and 1967. If this conflict were just about occupation, then Yasser Arafat would not have rejected the two-State solution

in favour of a campaign of terrorism of the most brutal kind. And if this conflict were just about occupation, Israelis would not get the message we get every time a suicide bomber massacres innocent civilians with the blessing and complicity of the Palestinian leadership. The message broadcast loud and clear from all of this is a continuing rejection of the right of the Jewish people to self-determination in their ancient homeland, side by side with their Palestinian and Arab neighbours.

If we are serious about solving the conflict, we cannot avoid mutual recognition and mutual compromise. This resolution is about the precise opposite. It is about maximalist claims and ignoring the rights of the other side. It is about claiming a monopoly over law, rights and victimhood. It continues the recipe of failure.

Israel is ready, and has been for a long time, to recognize the rights of the Palestinian people to self-determination in a State of their own, side by side with Israel, as envisaged in the road map. Is the Palestinian side willing to affirm today, or any day, the right of the Jewish people to self-determination in their ancient homeland? Is it willing to educate its people and the region about that right and to act accordingly? In all the statements made by the Palestinian Observer, we have never heard those simple words of peace and reconciliation. I wonder if we ever will.

Mr. Paolillo (Uruguay) (*spoke in Spanish*): Uruguay decided to vote in favour of the resolution that we have just adopted because we believe that its content simply reiterates the principles and conclusions already adopted by the General Assembly and other United Nations bodies. Thus, the resolution does not in any way prejudge the basis, principles or outcome of the Middle East peace process.

We also believe that by adopting the resolution, the General Assembly is helping encourage the two parties to this long conflict to shoulder their responsibilities once and for all, and to embark on the peace process in order to arrive as soon as possible at a just and comprehensive settlement in the Middle East.

In addition, I wish to note that in our consideration of the draft resolution, a procedure was followed that, unfortunately, has been used repeatedly. Indeed, this is not the first time that many members of the Assembly are in the position of having to consider, and take a position on a draft resolution, when the final draft text has been circulated only a few hours before its being put to the vote. That does not allow enough time to examine the content and the consequences with due care. Sometimes there even is not enough time to consult with our capitals.

In such cases, the draft resolutions are almost always negotiated among the sponsors and certain groups of countries. Large sectors of the Assembly are left out of those negotiations. Thus, when an agreement is reached it is logical that those involved in the negotiations are not taken by surprise and that they are entirely ready to vote.

But it seems unfair to oblige the many States that have not been invited to participate in the negotiations to take a decision on texts of which they have become aware just a few hours previously. We see in that process an attitude of disdain for such States on the part of those who press for the speedy adoption of draft resolutions that have not been distributed far enough in advance. We hope that this process will not recur in the future.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): Guatemala abstained in the vote on draft resolution A/58/L.61/Rev.1 because it is our understanding, in spite of the constructive amendments made to the original texts, that it touches on subjects which, pursuant to Security Council resolutions 242 (1967) and 338 (1973), are to be resolved through negotiations between the parties as final status issues.

Nonetheless, we reiterate our commitment to the right of self-determination of the Palestinian people, and we resolutely share the vision of a region in which two viable, sovereign and independent States, Israel and Palestine, live side by side in conditions of peace, harmony and security.

The President: We have heard the last speaker in explanation of vote after the vote. I now give the floor to the Permanent Observer of Palestine.

Mr. Al-Kidwa (Palestine) (*spoke in Arabic*): We would like to express our sincere and profound thanks to all States Members of the United Nations that supported today's resolution. We thank in particular the sponsors of the resolution, including Malaysia, and the other States that supported it from the outset, such as the members of the Organization of the Islamic Conference and the Non-Aligned Movement, including States from Africa, Asia and Latin America and the

Caribbean. We would also like to thank the European Union, including the Irish presidency, for its cooperation during the rather difficult negotiating process.

Today's resolution is undoubtedly an extremely important one. It reaffirms basic issues, including the status of the Palestinian territory occupied since 1967, including East Jerusalem, as territory under military occupation. It also reaffirms that the Palestinian people have the right to self-determination and to exercise sovereignty over their territory. The resolution also affirms that Israel, the occupying Power, must comply with its duties and obligations under the Fourth Geneva Convention and the Fourth Hague Convention.

Those are all very important matters that pertain to the core of the conflict and to the foundation of rights of our people. All of those matters are non-negotiable, in the same way that the existence of Israel is non-negotiable. What is negotiable is the process that will lead to the establishment of two viable, independent and sovereign States — Israel and Palestine — based upon the pre-1967 borders.

What transpired today is of great importance, particularly because it occurred with such an overwhelming majority reflecting the position of nearly the entire international community. Most notably, it took place after grave negative developments that — had it not been for the efforts of the international community — could have destroyed the entire peace process.

I will spare the Assembly any reply to the last intervention by the Israeli representative, since such a reply would take quite a long time, and also because it is a hopeless issue. The representative of Israel is incapable of understanding that the problem does not lie with the international community; the problem lies in Israeli policies and measures against the Palestinian people. He is incapable of understanding that the General Assembly is not against Israel. On the contrary, the Assembly created Israel and is the same organ that adopted resolution 181 (II), on the partition of Palestine. But the General Assembly adheres to international law and supports the rights of the Palestinian people that the Israeli representative denies. In any event, this is the international community; we must learn to respect its will.

In that context, I would like to refer to the total isolation of the Israeli-American position. But I fully understand that the objective is not to achieve such isolation, but rather to change erroneous positions and to move towards a consensus that would bring about just, lasting and comprehensive peace and security in the Middle East.

The Palestinian people are grateful to you, Mr. President, for the letter of assurances and guarantees that you sent to them today.

The President: The General Assembly has thus concluded this stage of its consideration of agenda item 38.

The meeting rose at 4.20 p.m.